

**MEETING MINUTES
SAN JUAN COUNTY (SJC), WASHINGTON
COUNTY COUNCIL
July 14, 2009**

Tuesday, July 14, 2009 - Council Hearing Room, Legislative Building, Friday Harbor

10:00 AM CALL TO ORDER AND FLAG SALUTE

Council Chair Peterson called the meeting to order at 10:00 a.m. and the flag salute was conducted. Council members Howard (Howie) Rosenfeld, Gene Knapp, Bob Myhr, Lovel Pratt, and Richard Fralick; County Administrator, Pete Rose; Clerk of the Council, Ingrid Gabriel; Deputy Clerk, Lisa Brown; and interested members of the public were present.

NEW EMPLOYEE INTRODUCTIONS

Council Chair Peterson introduced the new **Council Clerk Ingrid Gabriel** and welcomed her to the County.

Pete Rose reported on organizational changes and requested action to ratify his temporary appointment of John Manning, as Interim Director of CD&P, to keep the department intact, maintaining a planning director and planning authority as organizational changes are transitioned through.

Moved by Myhr, seconded by Knapp, to appoint John Manning as Interim Director of Community Development and Planning (CD&P). Motion carried unanimously.

CITIZENS' ACCESS TIME

Sam Buck Jr., a San Juan Island resident, addressed the Council regarding the Critical Areas Ordinance (CAO), to share his views on its impact to San Juan County, implore the Council to consider what the opposition is presenting, and postpone its enactment until necessary.

Alan Rosato read a prepared statement into the record regarding unique ballot identifiers and reported that a law suit had been filed with the State Supreme Court against Sam Reed, Secretary of State; Milene Henley, SJC Auditor; and San Juan County, for utilizing the Mail-in Ballot Tracker system for elections.

Frank Penwell, President of the Citizens Alliance for Property Rights, addressed the Council regarding the CAO and recommended the Council hire Dr. Robert Crittenden with \$5,000 of grant funding to provide additional best available science. He also commented on the solid waste fees, noting that the problem is not fees, but that there are "too many chiefs." He also offered to haul Friday Harbor appliances for 33% less than SJC is currently paying. Ms. Pratt requested written information regarding Mr. Penwell's various white goods hauling rates.

COUNCIL ADMINISTRATIVE MATTERS

Minutes: Moved by Myhr, seconded by Rosenfeld, to adopt the **Minutes of July 6 and 7, 2009**. Motion carried unanimously.

Consent Agenda: Moved by Myhr, seconded by Knapp, to adopt the **Consent Agenda of July 14, 2009**, as follows:

A. Resolutions/Ordinances: (No items.)

B. Contracts/Agreements: 1) Software and Initial Peopleware Agreement, #09TR.001, and Software License Agreement, #09TR.002, between Computer Information Concepts, Inc. and San Juan County.

C. Budget Items: Approve 2009 Warrants signed by Auditor and County Administrator:

- Warrants #65421-65422 in the amount of \$267.99 for Veteran's Assistance
- Warrants #65418-65419 in the amount of \$2,265.21 for County Claims
- Warrants #65365-65417 in the amount of \$439,370.32 for Public Works
- Warrants #65246-65364 in the amount of \$122,094.40 for County Claims

D. Personnel: (No items.)

E. Appointments: (No items.)

F. Correspondence: (No items.)

G. Miscellaneous: 1) A Proclamation of thanks and appreciation to Jeff Bash, for service on the Water Resources Management Committee, and representative of the Department of Ecology, from 2006-2009.

H. Bid Openings: (No items.)

Motion carried unanimously.

Assessment Regulations: Council Chair Peterson introduced Charles Zalmanek, Assessor; and RC Covazos, State of Washington, Department of Revenue. Mr. Zalmanek reviewed difficulties his office is having in completing the assessment duties required by the State. Mr. R.C. Covazos, explained that the State is working on a modification to the cycle requirement for SJC, increasing it from a three-year cycle to a four-year cycle, allowing the Assessor to carry parcels forward to a fourth year while implement the new software and assessing new construction. This would transition back to a three year cycle beginning in 2010 until 2014, when every county will be converting to an annual reporting basis. Mr. Zalmanek stated that, assessments of new construction on Orcas, Lopez, and outer islands, would require additional funding and that he would like to increase his office manager from .5 FTE to .625 FTE and provide necessary additional training. He said this could all be accomplished with the \$21,000 deferred from phase one reductions and noted that [through these efforts] he expects to make a return to the General Fund.

COUNCIL MEMBER UPDATES

Ferries/FAC/Intermodal: Mr. Rosenfeld reported on a successful interim touring-watch allowance for the fall Anacortes/San Juan Islands ferry runs. Ed Sutton, Ferry Advisory Committee (FAC) also provided input and noted that Rob deGavre, FAC member, and Mr. Rosenfeld would be preparing a thank you letter to Captain Englebert. He suggested including David Moseley, WSF Director, and Mike Shilling, Captain of the Chelan.

(The following Council Member Updates were continued to the afternoon.)

Budget Subcommittee: (Commenced at 4:29 p.m., due to time constraints.) Mr. Fralick reported that a draft reserve ordinance would be presented for a first touch on July 28, 2009.

General Government Subcommittee: Mr. Knapp inquired about a call from Victor Boede. Mr. Rose explained that the objectionable sign had been removed several weeks ago and Russ Bruland of Public Works staff would contact him to see why there was an objection at this point in time.

ADDITIONAL UPDATES & DISCUSSION ITEMS

Marine Resources Committee: Mr. Peterson read from a letter from the SJC MRC to Phil Anderson, Washington Department of Fish and Wildlife. He noted that it sounded like a decision was made by the MRC to ask another agency to take an action and requested clarity. Mr. Rose offered to seek clarification from Mary Knackstedt.

Agricultural Resource Committee Letter: Council discussion took place regarding the Labor and Industries letter and the following action took place:

Moved by Pratt, seconded by Rosenfeld, to send the letter drafted by the ARC to Kathy Vargas, Labor and Industries. Motion carried with Myhr abstained.

10:20 AM PUBLIC HEARING: Consideration of an Ordinance adopting policies and procedures to identify and prevent identity theft. Present: Full Council; Pete Rose, County Administrator; Ingrid Gabriel, Clerk to the Council; Lisa Brown, Public Hearings Specialist; Randall Gaylord, Prosecuting Attorney; and interested members of the public were present.

Mr. Gaylord explained the necessity of this ordinance, as SJC is the keeper of confidential information. He noted that it is consistent with the model ordinance of the Federal Trade Commission and that it is similar to the one adopted by the Town of Friday Harbor. Mr. Gaylord answered questions from the Council and made several edits in session. Public testimony was opened, none submitted, and closed. The following motion was made:

Moved by Myhr, seconded by Knapp, to adopt an Ordinance Adopting Policies and Procedures to Identify and Prevent Identity Theft. Council discussion took place. Motion carried unanimously.

Mr. Rose explained that the Prosecutor and Auditor are identifying covered accounts and will also implement training regarding this Ordinance.

Council Chair Peterson recessed the meeting to allow for the Budget Subcommittee to meet.

10:45 AM PUBLIC HEARING: (Commenced at 11:00 a.m., due to time constraints.) Consideration of an Ordinance amending the San Juan County Code Chapter 12.08, County Parks to include Land Bank properties. Present: Full Council; Pete Rose, County Administrator; Ingrid Gabriel, Clerk to the Council; Lisa Brown, Public Hearings Specialist; Randall Gaylord, Prosecuting Attorney; and interested members of the public.

Mr. Rose explained that this Ordinance revision had been presented previously, with the goal of bringing the Land Bank properties under the same enforcement regulations as County Parks. Public testimony was opened, none submitted, and closed with the option of reopening. Council discussion took place regarding the ordinance, which was revised in session. **The public hearing was continued to August 25, 2009, at 11:45 a.m.**

11:00 AM PUBLIC HEARING: (Commenced at 11:14 a.m., due to time constraints.) Consideration of an Ordinance Amending CD&P Fees. Present: Full Council; Pete Rose, County Administrator; Ingrid Gabriel, Clerk to the Council; Lisa Brown, Public Hearings Specialist; John Manning, H&CS Director; and interested members of the public.

Mr. Manning provided background information pertaining the proposed Ordinance amending fees for CD&P. Public testimony was opened, none submitted, and closed. The following action took place:

Moved by Fralick, seconded by Myhr, to adopt an Ordinance Amending Fees for Services Provided by the SJC CD&P Department. Motion carried unanimously.

11:15 AM DISCUSSION: An Ordinance to create a Building Code Board of Appeals – John Manning, H&CS Director; Rene Beliveau, Randall Gaylord, Prosecuting Attorney.

Mr. Gaylord led this second touch by explaining the purpose of the Building Code Board of Appeals and presented the regulating Ordinance for comment. Mr. Gaylord answered questions from the Council regarding appeals, charging authority, violations, and penalties. Mr. Fralick made a motion to move the Ordinance forward with the exception of Section 8, then restated his motion to move the Ordinance forward with the exception of Section 8. A. The motion failed for the lack of a second and the following action took place:

Moved by Myhr, seconded by Rosenfeld, to move the Ordinance to Create a Building Code Board of Appeals forward to a public hearing. Motion carried with Fralick opposed.

1:00 PM COUNTY ADMINISTRATOR ITEMS

1. Solid Waste System Financial Status Update: Pete Rose, County Administrator; Jon Shannon, Public Works Director; and interested members of the public were present.

Mr. Rose introduced this briefing, noting that a Solid Waste Program budget amendment would be forthcoming and that Mr. Shannon would be presenting options to pull the program into balance. Mr. Shannon provided a PowerPoint presentation which included information regarding reduction in annual tonnage and resulting revenue shortfalls, and short term strategies to remedy the deficit situation, such as reduction in hours and financing through Capital and Operational funds. Council discussion took place regarding the program and recommendations. Mr. Shannon answered questions from the Council. Mr. Rose also provided input. Mr. Myhr pointed out that Lopez citizens take great pride in the Lopez transfer station and its management.

1:30 PM PUBLIC HEARING: Consideration of an Ordinance pertaining to Street Vendors. Present: Full Council; Pete Rose, County Administrator; Ingrid Gabriel, Clerk to the Council; Lisa

Brown, Public Hearings Specialist; Randall Gaylord, Prosecuting Attorney; Bill Cumming, Sheriff; and interested members of the public.

Mr. Rose noted for the record that letters received by e-mail had been entered into the record as testimony. Mr. Gaylord explained that the changes made in session on June 22, 2009 had been incorporated and that the Ordinance had been noticed for public hearing. Mr. Gaylord and Sheriff Cumming answered questions from the Council. Public testimony was opened, submitted by Mr. Hughes, Claudia Mills, Michael Rivkin, Lance Evans, Milene Henley, and Jack Cory. When there was no further testimony requested, Council Chair Peterson closed public test with right to reopen. Mr. Gaylord answered additional questions from the Council and Sheriff Cumming requested a shorter infraction period. Deliberations were held. The following action then took place:

Moved by Pratt, seconded by Rosenfeld, to change Section 09 of the Ordinance from stating “each day” to “each hour.” Motion carried unanimously.

Moved by Fralick, seconded by Myhr, to add the allowance of Lemonade Stands to Section C by allowing one person to qualify as a youth group. Motion carried unanimously.

Moved by Pratt, seconded by Fralick, to change Section 6 E, to read “written consent of all property owners within 25 feet of the application site.” Council discussion took place. Ms. Pratt amended her motion to state “business owners” instead of “property owners.” Mr. Fralick accepted the amendment. Motion carried unanimously.

Moved by Rosenfeld, seconded by Pratt, that in Section 6 F, the payment fee be raised to \$50.00 per day. Motion carried with Myhr opposed.

Moved by Myhr, seconded by Rosenfeld, to include “business license” in Section 6 A. Motion carried unanimously.

Moved by Myhr, seconded by Knapp, that Acceptance under Section 7: beginning with “Revocation or Denial” be titled “Approval, Revocation, or Denial,” and in the third full sentence of Section 7 read, “The County should notify the applicant or vendor in writing of approval or denial.” Motion carried unanimously.

Moved by Myhr, seconded by Rosenfeld, that section 8 read, “Display ‘prominently’ any permit required by the Ordinance.” Motion carried unanimously.

Growth and sale of partial crops was discussed. Mr. Gaylord provided an explanation regarding vendors, resale, and selling ones own produce and suggested resale and consignment not be exempt. **The Council concurred by consensus.**

Moved by Myhr, seconded by Rosenfeld, to adopt an Ordinance Requiring a Use Permit for Vendors in Public Ways and Establishing Regulations for all Vendors. Mr. Fralick noted that this would be an interim measure if it is determined that something more stringent should be necessary. Motion carried unanimously.

2:10 PM PUBLIC HEARING: (Commenced at 2:43 p.m. due to time constraints.) Consideration of an Ordinance amending the public business hours for San Juan County. Present: Full Council; Pete Rose, County Administrator; Ingrid Gabriel, Clerk to the Council; Lisa Brown, Public Hearings Specialist; Randall Gaylord, Prosecuting Attorney; and interested members of the public.

Mr. Gaylord referenced the proposed Ordinance, designed to allow for flexibility in hours of operation open to the public and giving the Administrator the authority to adjust time periods for periods up to six months. Mr. Gaylord and Mr. Rose answered questions from the Council. Public testimony was opened, submitted by Gordy Peterson, and closed with the right to reopen if necessary. In post-testimony questions, Mr. Rose noted that departments that had staff cuts were asking for relief by way of quiet time periods. Mr. Myhr said offices are to serve the public and should be open as much as possible, even in difficult economic times. Council discussion took place and deliberations were held.

Moved by Rosenfeld, seconded by Fralick, that under Hours in Section C that it be changed from six months to three months. Council discussion took place and Mr. Rose provided input. **Mr. Rosenfeld and Mr. Fralick accepted a friendly from Mr. Knapp and Mr. Myhr to change the rolling 12 month period to any calendar year. Motion carried unanimously.**

Moved by Fralick, seconded by Myhr to adopt an Ordinance Amending the Business Hours for San Juan County. Motion carried unanimously.

2:20 PM COMMITTEE APPOINTMENT: Selection of Committees for Fireworks Referendum Pro and Con Statements – Milene Henley, Auditor

Ms. Henley explained that a referendum had been filed in July, 2008, sending Ordinance 28-2008 to the voters for approval or rejection and will be on this November's general ballot. She explained the Council's obligation to appoint not more than 3 members to each of two committees to write arguments in favor of and opposing the referendum and presented the following: argument in favor, 1) Don Burkhart Burkhart, Blakeley Island; 2) Stephanie Johnson O'Day, SJI; and 3) Warren Miller from Orcas Island; and argument opposing, 1) Bob Lowe, County Fire Marshal; 2) Mike Harris, Orcas Island Fire Chief; and 3) Jim Ghiglione, Lopez Island Fire Chief; and recommended the Council accept these nominations. The following motion was made:

Moved by Fralick, seconded by Knapp, that the Council approve the Auditor's recommended appointments to the committees to write arguments for and against Ordinance 28-2008, with respect to Referendum 2008-2, in the Voters' Pamphlet for the general election of November 3, 2009. Motion carried unanimously.

2:30 PM PUBLIC HEARING: (Commenced at 2:59 p.m. due to time constraints.) Consideration of Ordinances amending Chapters 12 and 13 of the San Juan County Code. Present: Full Council; Pete Rose, County Administrator; Ingrid Gabriel, Clerk to the Council; Lisa Brown, Public Hearings Specialist; Randall Gaylord, Prosecuting Attorney; and interested members of the public.

Mr. Gaylord reviewed the Ordinances before the Council: Ordinances amending Chapter 12 of the SJCC – 1) County Road Excavations, Chapter 12.04, 2) Camping Restrictions, Chapter 12.12, and 3) Right-of-way Acquisition, Chapter 12.16; and Ordinances amending Chapter 13 of the SJCC, 1) Stormwater Utility, Chapter 13.04, and 2) Marine Salvage and Rescue Operations, Chapter 13.16, containing Charter compliance revisions. He recommended opening testimony on all ordinances and then discussing each one separately. Public testimony regarding all Ordinances, none submitted, and closed. Deliberations were held and the following action took place:

Moved by Myhr, seconded by Fralick, to adopt the Country Road Excavations Ordinance. Motion carried unanimously.

Moved by Myhr, seconded by Rosenfeld, to adopt the Camping Restrictions Ordinance. Mr. Peterson noted redundancy between this Ordinance and the County Parks/Land Bank Ordinance heard earlier and discrepancies in definition. Mr. Gaylord suggested referring this to Ms. Vedder and considering it at a future date. **Mr. Myhr withdrew his motion, then accepted, as an amendment to his motion, to move the Camping Restrictions Ordinance forward to a continued public hearing on August 25, 2009 at 11:45, to accompany the Parks/Land Bank Enforcement Ordinance. The amendment was accepted by Mr. Rosenfeld. Motion carried unanimously.**

Right-of-Way Acquisition Ordinance: Mr. Knapp expressed concerns regarding potential permitting for water-lines and it was decided by consensus that this Ordinance be referred to the General Government Subcommittee for further review.

Moved by Myhr, seconded by Rosenfeld, to adopt an Ordinance Regarding a Stormwater Utility, Amending Section 13.04.010 of the SJC Code to Ensure Consistency with the San Juan County Charter and State Law. Motion carried unanimously.

Marine Salvage Ordinance: Council discussion took place regarding the Marine Salvage Ordinance and the following action took place:

Moved by Myhr, seconded by Rosenfeld, to adopt an Ordinance Regarding Marine Salvage and Rescue Operations Amending Sections 13.16.020 of the SJC Code and Readopting Without Change, Sections 13.16.010 and 13.16.030, Previously Adopted by Resolution, to Allow Consistency with SJC Charter and State Law. Motion carried unanimously.

3:00 PM DISCUSSION: (Commenced at 3:17 p.m., due to time constraints.) Real Estate Excise Tax (REET) 2 (second touch) – Milene Henley, Auditor.

Ms. Henley explained that REET is assessed on the sale of properties, with REET 1 (first ¼%) and REET 2 (second ¼%) assessed on the seller. She provided history of these funds, their appropriate uses, and SJC capital needs. She pointed out that 19 of 29 REET 2 eligible counties, and 73 of 75 cities, in the counties bordering San Juan, under the GMA, including the Town of Friday Harbor, have voted to utilize REET 2 funds. Ms. Henley answered questions from the Council, including reassigning expenditures from REET 1 to REET 2 to free funding from REET 1 for use on Solid Waste Programs.

Moved by Fralick, seconded by Rosenfeld, that the Council direct the Auditor and the Prosecutor to draft an Ordinance which adopts additional tax on real estate sales authorized by RCW 82.46.035 and that a public hearing be set for consideration of such an Ordinance. Motion carried with Knapp opposed.

3:30 PM DISCUSSION: Second Quarter Financial Review – Milene Henley, Auditor.

Ms. Henley reported on the second quarter figures and made comparisons to the first quarter. She reviewed key economic indicators, and provided revised year-end projection scenarios, including Phase 1 reductions, and answered questions from the Council.

4:00 PM DISCUSSION: 2009 Budget Reduction, Phase 2 – Milene Henley, Auditor; John Manning, Health & Community Services Director.

Ms. Henley explained that the 2010 budget was based on Phase 1 adjustments, noting that they are not intended to be restored next year. Mr. Manning and Mr. Rose also provided input regarding departmental reorganization and the idea of a levy lid lift. Mr. Rose explained that options regarding legislating and collective bargaining, and asked if the Council wanted to schedule a special meeting to consider Phase 2 reductions, discuss the 2010 budget, and consider whether to put a levy lid lift to ballot.

The Council scheduled a Special Meeting for Wednesday, July 22, 2009, at 9:00 a.m., in the SJC Legislative Hearing Room.

ADDITIONAL ITEMS:

CAO: Mr. Peterson announced that the CAO workshop scheduled for Monday July 27, 2009, was rescheduled to Tuesday, August 25, 2009, at 1:00 p.m. at the Community Theatre. Mr. Cory inquired about the format. Ms. Pratt stated she is working on confirming attendance of DOE personnel. Council discussion took place regarding having both sides represented to provide a thorough dialogue for Council consideration. Mr. Fralick requested agenda time on July 27th to discuss format.

5:00 PM ADJOURN AND SIGN DOCUMENTATION: (Time approximate.) Council Chair Peterson adjourned the meeting at 4:32 p.m. A Special Meeting was scheduled for Wednesday, July 22, 2009, and the next regular Monday Meeting was scheduled for Monday, July 27, 2009, and the next regular Tuesday Meeting was scheduled for July 28, 2009.

APPOINTMENTS:

1. See Consent Agenda, section E.
2. Appointment of Pro and Con Statement Committee Members for Referendum 2008-2 - (See COMMITTEE APPOINTMENT, 2:20 p.m., for details of action taken.)

BUDGET ITEMS/WARRANTS:

1. See Consent Agenda, section C.

CALL FOR BIDS: (No items.)

CONTRACTS/AGREEMENTS:

1. See Consent Agenda, section B.

CORRESPONDENCE:

1. Letter to Kathy Vargas, L&I – (Refer to COUNCIL MEMBER UPDATES, line 103, for details of action taken.)

MISCELLANEOUS ITEMS:

1. Proclamation of appreciation – (See Consent Agenda, Section G.)

ORDINANCES / RESOLUTIONS:

- ORD. NO. 19-2009-** (Refer to PUBLIC HEARINGS, 10:20 a.m., for details of action taken.)
ORD. NO. 20-2009- (Refer to PUBLIC HEARINGS, 11:00 a.m., for details of action taken.)
ORD. NO. 21-2009- (Refer to PUBLIC HEARINGS, 1:30 p.m., for details of action taken.)
ORD. NO. 22-2009- (Refer to PUBLIC HEARINGS, 2:10 p.m., for details of action taken.)
ORD. NO. 23-2009- (Refer to PUBLIC HEARINGS, 2:30 p.m., for details of action taken.)
ORD. NO. 24-2009- (Refer to PUBLIC HEARINGS, 2:30 p.m., for details of action taken.)
ORD. NO. 25-2009- (Refer to PUBLIC HEARINGS, 2:30 p.m., for details of action taken.)

PERSONNEL ITEMS:

1. Appointment of **John Manning to serve as Interim CD&P Director** – (Refer to NEW EMPLOYEE INTRODUCTIONS, line 19, for details of action taken.)

COUNTY COUNCIL, SAN JUAN COUNTY, WASHINGTON

These Minutes were approved and signed on Tuesday, July 28, 2009. The original document is retained in the Council's permanent proceedings file. Attest: Lisa J. Brown, Deputy Clerk.